



Senate Committee On
DOMESTIC SECURITY

Alex Diaz de la Portilla, Chair
Frederica S. Wilson, Vice Chair

Meeting Packet

Wednesday, January 11, 2006
9:00 a.m. – 12 noon
301 Senate Office Building

***(Please bring this packet to the committee meeting.
Duplicate materials will not be available.)***

EXPANDED AGENDA

COMMITTEE ON DOMESTIC SECURITY

Senator Diaz de la Portilla, CHAIR
Senator Wilson, VICE-CHAIR

DATE: Wednesday, January 11, 2006

TIME: 9:00 a.m. -- 12:00 noon

PLACE: Room 301, Senate Office Building

(MEMBERS: Senators Constantine, Dockery, Hill, Sebesta, Siplin and Wise)

TAB	BILL NO. AND INTRODUCER	BILL DESCRIPTION AND SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 0696 Domestic Security	Security System Plans/State/OGSR; amends provision re exemption from public-records requirements provided for security system plans held by state agency; saves exemption from repeal under OGSR Act; deletes provisions providing for repeal of exemption; amends provision re exemption from public-meetings requirements provided for any meeting that would reveal security system plan, or portion thereof, which is exempt from disclosure, etc. Amends 119.071, 286.0113.	
		DS 01/11/06 GO RC	
2	SB 0698 Domestic Security	Medical Facilities Info./DOH/OGSR; amends provision re exemption from public-records requirements provided for information concerning medical facilities & laboratories which is maintained by DOH as part of state's plan to defend against terrorism; saves exemption from repeal under OGSR Act; deletes provisions providing for repeal of exemption. Amends 381.95.	
		DS 01/11/06 HE GO RC	
3	SB 0700 Domestic Security	Emergency Mgmt. Plans/Hospitals/OGSR; amends provision re exemptions from public-records requirements provided for portions of comprehensive emergency management plans which address hospital's response to terrorism & exemption from public-meetings requirements provided for public meetings which would reveal emergency management plan that is exempt from disclosure; saves exemptions from repeal under OGSR Act, etc. Amends 395.1056.	
		DS 01/11/06 HE GO RC	
Presentation on Disaster Preparedness and Response: Planning and logistics for staging and distribution of commodities - Department of Community Affairs			

E X P A N D E D A G E N D A

COMMITTEE ON DOMESTIC SECURITY

DATE: Wednesday, January 11, 2006

TIME: 9:00 a.m. -- 12:00 noon

TAB	BILL NO. AND INTRODUCER	BILL DESCRIPTION AND SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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	Presentation on state's operational role and responsibilities in delivery of electric power and post-disaster recovery <ul style="list-style-type: none">- Department of Environmental Protection		
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	Panel Discussion: Issues related to delivery of electric power, disaster preparedness and response, and barriers to power restoration during 2004 and 2005 Hurricane Season <ul style="list-style-type: none">- Representatives of investor-owned, municipal and cooperative electric utilities		
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1

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Domestic Security Committee

BILL: SB 696

SPONSOR: Domestic Security Committee

SUBJECT: Security System Plans/State/OGSR

DATE: December 15, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pardue QP	Skelton SB	DS	Pre-meeting
2.			GO	
3.			RC	
4.				
5.				
6.				

I. Summary:

This bill reenacts the public records and the public meetings exemption provisions for security system plans. The bill provides for the exemption of security system plans of any property owned by or leased to the state or any of its political subdivisions or any privately owned or leased property security system plans which are held by any agency as defined in s. 119.011, F.S. Security system plans include all records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations relating directly to the physical security of a facility. The exemption also applies to threat assessments, threat response plans, emergency evacuation plans, sheltering arrangements, or manuals for security personnel, emergency equipment, or security training. The bill deletes the provisions that repeal the exemptions.

This bill reenacts and amends s. 119.071(3)(a), F.S. and s. 285.0113, F.S.

II. Present Situation:

Public Records

Florida has a long history of providing public access to the records and meetings of governmental and other public entities. The Florida Legislature enacted the first law affording access to public records in 1909. In 1992, Floridians voted to adopt an amendment to the Florida Constitution that raised the statutory right of public access to public records to a constitutional level.

The Public Records Law, ch. 119, F.S., specifies the conditions under which public access must be provided to governmental records. Section 286.011, F.S., the Public Meetings Law, specifies

the requirements for meetings of public bodies to be open to the public. While the State Constitution provides that records and meetings are to be open to the public, it also provides that the Legislature may create exemptions to these requirements by general law if a public need exists and certain procedural requirements are met. Article I, s. 24, of the Florida Constitution, governs the creation and expansion of exemptions to provide, in effect, that any legislation that creates a new exemption or that substantially amends an existing exemption must also contain a statement of the public necessity that justifies the exemption. Article I, s. 24, of the Florida Constitution, provides that any bill that contains an exemption may not contain other substantive provisions, although it may contain multiple exemptions.

The Open Government Sunset Review Act (s. 119.15, F.S.), provides for the repeal and prior review of any public records or meetings exemptions that are created or substantially amended in 1996 and subsequently. The chapter defines the term “substantial amendment” for purposes of triggering a repeal and prior review of an exemption to include an amendment that expands the scope of the exemption to include more records or information or to include meetings as well as records. The law clarifies that an exemption is not substantially amended if an amendment limits or narrows the scope of an existing exemption. The law was amended by ch. 2005-251, Laws of Florida, to modify the criteria under the Open Government Sunset Review Act so that consideration will be given to reducing the number of exemptions by creating a uniform exemption during the review of an exemption subject to sunset.

Under the Open Government Sunset Review Act, an exemption may be created or maintained only if it serves an identifiable public purpose. An identifiable public purpose is served if the exemption:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, the administration of which would be significantly impaired without the exemption;
- Protects information of a sensitive personal nature concerning individuals, the release of which information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals; or
- Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information which is used to protect or further a business advantage over those who do not know or use it, the disclosure of which information would injure the affected entity in the marketplace.

Section 119.15(6)(a), F.S., requires, as part of the review process, the consideration of the following questions:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?

- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

Further, the exemption must be no broader than is necessary to meet the public purpose it serves. In addition, the Legislature must find that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption.

Under s. 119.15(8), F.S., notwithstanding s. 768.28, F.S., or any other law, neither the state or its political subdivisions nor any other public body shall be made party to any suit in any court or incur any liability for the repeal or revival and reenactment of an exemption under the section. The failure of the Legislature to comply strictly with the section does not invalidate an otherwise valid reenactment. Further, one session of the Legislature may not bind a future Legislature. As a result, a new session of the Legislature could maintain an exemption that does not meet the standards set forth in the Open Government Sunset Review Act of 1995.

2001 Legislative Findings

In creating ss. 119.071(3)(a) and 286.0113, F.S., the Legislature found the public necessity to exempt security plans because they contain components that address safety issues for public and private property on which public business is conducted and address the security of private property on which a large segment of the public relies.¹ The finding further stated that the public relies on radio and television towers, telephone and cable lines, power plants and grids, oil and gas pipelines, and many types of privately owned infrastructure to provide necessary services. To coordinate the response of the public sector and the private sector in an emergency, such as an act of terrorism, public agencies must be able to review security-system plans for public and private property. If the information in security-system plans is available for inspection and copying, terrorists could use this information to hamper or disable emergency-response preparedness, thereby increasing injuries and fatalities. Although some skill would be required to use such information to further an act of terrorism, ample evidence exists of the capabilities of terrorists to conduct complicated acts of terrorism.

2005 Open Government Sunset Reviews

The Senate Domestic Security Committee, in its review of Senate Interim Project Reports 2006-210 and 2006-211, accepted the recommendation that the exemptions provided for security system plans continue to be sufficiently compelling to override the strong public policy of open government.

International terrorists continue to demonstrate the ability to plan and carry out sophisticated acts of terrorism. Their capability appears to be no less today than at the time of the Legislature's original findings in 2001.

¹ Chapter 2001-361, Laws of Florida.

III. Effect of Proposed Changes:

Section 119.071(3)(a), F.S., provides for a public records exemption for security system plans. Section 286.0113, F.S., provides for a public meetings exemption for security systems plans. These sections provide for the exemption of security system plans of any property owned by or leased to the state or any of its political subdivisions or any privately owned or leased property security system plans which are held by any agency as defined in s. 119.011, F.S. Security system plans include all records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations relating directly to the physical security of a facility. The exemption also applies to threat assessments, threat response plans, emergency evacuation plans, sheltering arrangements, or manuals for security personnel, emergency equipment, or security training.

This bill reenacts ss. 119.071(3)(a) and 286.0113, F.S. These sections are also amended to delete the provisions that repeal the exemptions.

This bill provides an effective date of October 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Article I, s. 24 of the State Constitution, permits the Legislature to provide by general law for the exemption of open meetings and for the exemption of records. A law that exempts a record must state with specificity the public necessity justifying the exemption and the exemption must be no broader than necessary to accomplish the stated purpose of the law.² This requirement was met by Chapter 2001-361, L.O.F.

Additionally, a bill that contains an exemption may not contain other substantive provisions, although it may contain multiple exemptions that relate to one subject.³ This bill is in compliance with the provision.

C. Trust Funds Restrictions:

None.

² See, *Memorial Hospital-West Volusia v. News-Journal Corporation*, 729 So.2d 373, 380 (Fla. 1999); *Halifax Hospital Medical Center v. News-Journal Corporation*, 724 So.2d 567 (Fla. 1999)

³ Art. I, s.24(c) of the State Constitution

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Domestic Security Committee

BILL: SB 698

SPONSOR: Domestic Security Committee

SUBJECT: Medical Facilities Info./DOH/OGSR

DATE: December 15, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pardue <i>OP</i>	Skelton <i>STB</i>	DS	Pre-meeting
2.			HE	
3.			GO	
4.			RC	
5.				
6.				

I. Summary:

This bill reenacts the public records exemption provided for information concerning medical facilities and laboratories which is maintained by the Department of Health as part of state's plan to defend against terrorism. The bill provides for the exemption of any information identifying or describing the name, location, pharmaceutical cache, contents, capacity, equipment, physical features, or capabilities of individual medical facilities, storage facilities, or laboratories established, maintained, or regulated by the Department of Health. The bill deletes the provisions that repeal the exemption.

This bill reenacts and amends s. 381.95, F.S.

II. Present Situation:

Public Records

Florida has a long history of providing public access to the records and meetings of governmental and other public entities. The Florida Legislature enacted the first law affording access to public records in 1909. In 1992, Floridians voted to adopt an amendment to the Florida Constitution that raised the statutory right of public access to public records to a constitutional level.

The Public Records Law, ch. 119, F.S., specifies the conditions under which public access must be provided to governmental records. While the State Constitution provides that records are to be open to the public, it also provides that the Legislature may create exemptions to these requirements by general law if a public need exists and certain procedural requirements are met. Article I, s. 24, of the Florida Constitution, governs the creation and expansion of exemptions to

provide, in effect, that any legislation that creates a new exemption or that substantially amends an existing exemption must also contain a statement of the public necessity that justifies the exemption. Article I, s. 24, of the Florida Constitution, provides that any bill that contains an exemption may not contain other substantive provisions, although it may contain multiple exemptions.

The Open Government Sunset Review Act (s. 119.15, F.S.), provides for the repeal and prior review of any public records or meetings exemptions that are created or substantially amended in 1996 and subsequently. The chapter defines the term “substantial amendment” for purposes of triggering a repeal and prior review of an exemption to include an amendment that expands the scope of the exemption to include more records or information or to include meetings as well as records. The law clarifies that an exemption is not substantially amended if an amendment limits or narrows the scope of an existing exemption. The law was amended by ch. 2005-251, Laws of Florida, to modify the criteria under the Open Government Sunset Review Act so that consideration will be given to reducing the number of exemptions by creating a uniform exemption during the review of an exemption subject to sunset.

Under the Open Government Sunset Review Act, an exemption may be created or maintained only if it serves an identifiable public purpose. An identifiable public purpose is served if the exemption:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, the administration of which would be significantly impaired without the exemption;
- Protects information of a sensitive personal nature concerning individuals, the release of which information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals; or
- Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information which is used to protect or further a business advantage over those who do not know or use it, the disclosure of which information would injure the affected entity in the marketplace.

Section 119.15(6)(a), F.S., requires, as part of the review process, the consideration of the following questions:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

Further, the exemption must be no broader than is necessary to meet the public purpose it serves. In addition, the Legislature must find that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption.

Under s. 119.15(8), F.S., notwithstanding s. 768.28, F.S., or any other law, neither the state or its political subdivisions nor any other public body shall be made party to any suit in any court or incur any liability for the repeal or revival and reenactment of an exemption under the section. The failure of the Legislature to comply strictly with the section does not invalidate an otherwise valid reenactment. Further, one session of the Legislature may not bind a future Legislature. As a result, a new session of the Legislature could maintain an exemption that does not meet the standards set forth in the Open Government Sunset Review Act of 1995.

2001 Legislative Findings

In creating s. 381.95, F.S., the Legislature found the public necessity to exempt medical facility information because information identifying or describing the name, location, pharmaceutical cache, contents, capacity, equipment, physical features, or capabilities of individual medical facilities, storage facilities, or laboratories established, maintained or regulated by the Department of Health as part of the state's plan to defend its residents against future acts of terrorism is information that could be used by terrorists in planning acts of terrorism.¹ The finding further stated that if terrorists were able to discover this information used to defend the state and its residents and visitors against an act of terrorism, they could use it to craft a terrorist act to which the state may not be as well prepared to respond. This information could be used to increase the number of people injured or killed in a terrorist act. Although some skill would be required to use such information to further an act of terrorism, ample evidence of the capabilities of terrorists to conduct complicated acts of terrorism exist.

2005 Open Government Sunset Reviews

The Senate Domestic Security Committee, in its review of Senate Interim Project Report 2006-212, accepted the recommendation that the exemption provided for medical facilities information continues to be sufficiently compelling to override the strong public policy of open government.

International terrorists continue to demonstrate the ability to plan and carry out sophisticated acts of terrorism. Their capability appears to be no less today than at the time of the Legislature's original findings in 2001.

III. Effect of Proposed Changes:

This bill reenacts the public records exemption provided for information concerning medical facilities and laboratories which is maintained by the Department of Health as part of state's plan to defend against terrorism. The bill provides for the exemption of any information identifying or describing the name, location, pharmaceutical cache, contents, capacity, equipment, physical

¹ Chapter 2001-363, L.O.F.

features, or capabilities of individual medical facilities, storage facilities, or laboratories established, maintained, or regulated by the Department of Health.

The bill also provides that the Governor's certification of the sufficiency of medical facility information covered by the exemption is a public record. Further, the bill allows custodial agency disclosure of exempt information to another state or federal agency in order to prevent, detect, guard against, respond to, investigate, or manage the consequences of any attempted or actual act of terrorism or to prosecute those responsible for such attempts of acts. Such information retains its exempt status while in the custody of the receiving agency.

This bill reenacts s. 381.95 and amends the section by deleting the provision that repeals the exemption.

This bill provides for an effective date of October 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Article I, s. 24 of the State Constitution, permits the Legislature to provide by general law for the exemption of open meetings and for the exemption of records. A law that exempts a record must state with specificity the public necessity justifying the exemption and the exemption must be no broader than necessary to accomplish the stated purpose of the law.² This requirement was met by Chapter 2001-363, L.O.F.

Additionally, a bill that contains an exemption may not contain other substantive provisions, although it may contain multiple exemptions that relate to one subject.³ This bill is in compliance with the provision.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

² See, *Memorial Hospital-West Volusia v. News-Journal Corporation*, 729 So.2d 373, 380 (Fla. 1999); *Halifax Hospital Medical Center v. News-Journal Corporation*, 724 So.2d 567 (Fla. 1999)

³ Art. I, s.24(c) of the State Constitution

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Domestic Security Committee

BILL: SB 700

SPONSOR: Domestic Security Committee

SUBJECT: Emergency Mgmt. Plans/Hospitals/OGSR

DATE: December 15, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pardue <i>ep</i>	Skelton <i>STB</i>	DS	Pre-meeting
2.			HE	
3.			GO	
4.			RC	
5.				
6.				

I. Summary:

This bill reenacts the public records and the public meetings exemption provisions for portions of hospitals' comprehensive emergency management plans. The exemption applies to those portions of a comprehensive emergency management plan which address the response of a public or private hospital to an act of terrorism as defined by s. 775.30, F.S., and which are filed with or are in the possession of the Agency for Health Care Administration, a state or local law enforcement agency, a county or municipal emergency management agency, the Executive Office of the Governor, the Department of Health, or the Department of Community Affairs. The bill deletes the provisions that repeal the exemption.

This bill reenacts and amends s. 395.1056(1), (2), and (3), F.S.

II. Present Situation:

Public Records

Florida has a long history of providing public access to the records and meetings of governmental and other public entities. The Florida Legislature enacted the first law affording access to public records in 1909. In 1992, Floridians voted to adopt an amendment to the Florida Constitution that raised the statutory right of public access to public records to a constitutional level.

The Public Records Law, ch. 119, F.S., specifies the conditions under which public access must be provided to governmental records. Section 286.011, F.S., the Public Meetings Law, specifies the requirements for meetings of public bodies to be open to the public. While the State Constitution provides that records and meetings are to be open to the public, it also provides that

the Legislature may create exemptions to these requirements by general law if a public need exists and certain procedural requirements are met. Article I, s. 24, of the Florida Constitution, governs the creation and expansion of exemptions to provide, in effect, that any legislation that creates a new exemption or that substantially amends an existing exemption must also contain a statement of the public necessity that justifies the exemption. Article I, s. 24, of the Florida Constitution, provides that any bill that contains an exemption may not contain other substantive provisions, although it may contain multiple exemptions.

The Open Government Sunset Review Act (s. 119.15, F.S.), provides for the repeal and prior review of any public records or meetings exemptions that are created or substantially amended in 1996 and subsequently. The chapter defines the term “substantial amendment” for purposes of triggering a repeal and prior review of an exemption to include an amendment that expands the scope of the exemption to include more records or information or to include meetings as well as records. The law clarifies that an exemption is not substantially amended if an amendment limits or narrows the scope of an existing exemption. The law was amended by ch. 2005-251, Laws of Florida, to modify the criteria under the Open Government Sunset Review Act so that consideration will be given to reducing the number of exemptions by creating a uniform exemption during the review of an exemption subject to sunset.

Under the Open Government Sunset Review Act, an exemption may be created or maintained only if it serves an identifiable public purpose. An identifiable public purpose is served if the exemption:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, the administration of which would be significantly impaired without the exemption;
- Protects information of a sensitive personal nature concerning individuals, the release of which information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals; or
- Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information which is used to protect or further a business advantage over those who do not know or use it, the disclosure of which information would injure the affected entity in the marketplace.

Section 119.15(6)(a), F.S., requires, as part of the review process, the consideration of the following questions:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

Further, the exemption must be no broader than is necessary to meet the public purpose it serves. In addition, the Legislature must find that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption.

Under s. 119.15(8), F.S., notwithstanding s. 768.28, F.S., or any other law, neither the state or its political subdivisions nor any other public body shall be made party to any suit in any court or incur any liability for the repeal or revival and reenactment of an exemption under the section. The failure of the Legislature to comply strictly with the section does not invalidate an otherwise valid reenactment. Further, one session of the Legislature may not bind a future Legislature. As a result, a new session of the Legislature could maintain an exemption that does not meet the standards set forth in the Open Government Sunset Review Act of 1995.

2001 Legislative Findings

In creating s. 395.1056, F.S., the Legislature found the public necessity to exempt plan components of a hospital's response to terrorism because those portions of a comprehensive emergency management plan which address the response of a public or private hospital to an act of terrorism are vital plan components that affect the health and safety of the public.¹ The finding further stated that if security systems or plans, vulnerability analyses, emergency evacuation transportation, sheltering arrangements, post-disaster activities (including provisions for emergency power), communications, food, and water, post-disaster transportation, supplies (including caches), staffing, emergency equipment, individual identification of residents, transfer of records, and methods of responding to family inquiries were made publicly available for inspection or copying, they could be used to hamper or disable the response of a hospital to a terrorist attack. If a hospital's response to an act of terrorism were hampered or disabled, an increase in the number of Floridians subjected to fatal injury would occur.

While some skill would be required to use knowledge of plan components to disable a hospital's response to an act of terrorism, there is ample existing evidence of the capabilities of terrorists to plot, plan, and coordinate complicated acts of terror.

2005 Open Government Sunset Reviews

The Senate Domestic Security Committee, in its review of Senate Interim Project Report 2006-213, accepted the recommendation that the exemptions provided for portions of hospital comprehensive emergency management plans continue to be sufficiently compelling to override the strong public policy of open government.

International terrorists continue to demonstrate the ability to plan and carry out sophisticated acts of terrorism. Their capability appears to be no less today than at the time of the Legislature's original findings in 2001.

¹ Chapter 2001-362, L.O.F.

III. Effect of Proposed Changes:

This bill reenacts the public records and public meetings exemption provided for portions of hospitals' comprehensive emergency management plans. Section 395.1056, F.S., exempts from public disclosure, those portions of a comprehensive emergency management plan which address the response of a public or private hospital to an act of terrorism as defined by s. 775.30, F.S., and which are filed with or are in the possession of the Agency for Health Care Administration, a state or local law enforcement agency; a county or municipal emergency management agency, the Executive Office of the Governor, the Department of Health, or the Department of Community Affairs. The section also gives a public access exemption to those portions of a comprehensive emergency management plan related to terrorism response that are in the custody of a public hospital.

The public access exemption extends to portions of a hospital's comprehensive emergency management plan including those portions addressing security systems or plans; vulnerability analyses; emergency evacuation transportation; sheltering arrangements; post-disaster activities including provisions for emergency power, communications, food and water; post-disaster transportation; supplies, including drug caches; staffing; emergency equipment; and individual identification of residents, transfer of records, and methods of responding to family inquiries.

Any portion of a public meeting which would reveal information contained in a comprehensive emergency management plan which addresses the response of a hospital to an act of terrorism is also exempted.

This bill reenacts s. 395.1056(1), (2), and (3) and amends the section by deleting the provision that repeals the exemption.

This bill provides for an effective date of October 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Article I, s. 24 of the State Constitution, permits the Legislature to provide by general law for the exemption of open meetings and for the exemption of records. A law that exempts a record must state with specificity the public necessity justifying the exemption and the exemption must be no broader than necessary to accomplish the stated purpose of the law.² This requirement was met by Chapter 2001-362, L.O.F.

² See, *Memorial Hospital-West Volusia v. News-Journal Corporation*, 729 So.2d 373, 380 (Fla. 1999); *Halifax Hospital Medical Center v. News-Journal Corporation*, 724 So.2d 567 (Fla. 1999)

Additionally, a bill that contains an exemption may not contain other substantive provisions, although it may contain multiple exemptions that relate to one subject.³ This bill is in compliance with the provision.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

³ Art. I, s.24(c) of the State Constitution

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
